

PATENT COOPERATION TREATY


PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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Applicant's or agent's file reference RD-BAT-11	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/03430	International filing date (day/month/year) 07.08.2003	Priority date (day/month/year) 09.08.2002
International Patent Classification (IPC) or both national classification and IPC A24D3/04		
Applicant BRITISH AMERICAN TOBACCO (INVESTMENTS) ... et al.		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input checked="" type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 04.03.2004	Date of completion of this report 07.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Marzano Monterosso, Telephone No. +49 89 2399-2902



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03430**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-24 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03430**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 24

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 24 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

☐ restricted the claims.

☐ paid additional fees.

☐ paid additional fees under protest.

☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03430**

☐ complied with.

☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

☒ all parts.

☐ the parts relating to claims Nos. .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,19
Inventive step (IS)	Yes: Claims	
	No: Claims	2-18,20-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03430

Reference is made to the following documents:

- D1: WO 00 53037 A (CLARKE PAUL FRANCIS ;AMERICAN FILTRONA CORP (GB)) 14 September 2000 (2000-09-14)
- D2: US-A-4 675 064 (BERGER RICHARD M) 23 June 1987 (1987-06-23)
- D3: GB-A-1 019 092 (DESMOND WALTER MOLINS;MOLINS ORGANISATION LTD; TOM ROWLANDS) 2 February 1966 (1966-02-02) cited in the application
- D4: US-A-5 662 126 (CHARLTON JOHN ET AL) 2 September 1997 (1997-09-02)

Item III:

Claim 24 contains a reference to the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here.

Item IV:

1. This authority considers that there are 2 inventions covered by the claims indicated as follows:
 - I: Claims 1 to 18 and 20 to 23 (when referring back to claim 18) directed to a filter cigarette and a method for manufacturing the same, whereby the filter is connected to the tobacco rod by a strip of material and the filter is plugged in a paper which is other than a conventional "plugwrap".
 - II: Claim 19 and 20 to 23 (when referring back to claim 19) directed to a method for manufacturing a filter tip cigarette comprising the steps of producing a filter being wrapped in a paper which is not the conventional "plugwrap" and whereby particulate material is attached thereto.
2. Independent claims 1 and 18 concern the concept of attaching a filter tip to a cigarette in a inexpensive way, i.e. by means of a strip of material. Independent claim 19 relates to the concept of reducing vapour phase components of smoke (see description, p.4, third paragraph).
Consequently claims 1,18 and 19 are not linked to form a common inventive concept involving one or more of the same or corresponding technical features, which define a contribution over the prior art.

It follows from the above that the application contains two different concepts, so that the requirements of Rule 13.1 PCT are not met.

Item V:

3. The present application does not meet the requirements of Art. 33(2) PCT because the subject matter of claim 1 cannot be considered new for the following reasons:
 - 3.1 Document D1 discloses a filter cigarette comprising a tobacco rod wrapped in a wrapper and a filter joined thereto, the filter being wrapped along the length thereof in a tipping paper, and a strip of material covering the joint abutment of the tobacco rod and the filter, thus connecting the filter and tobacco rod (see p. 6, l. 21 - p.7, l. 5).
 - 3.2 It is further pointed out that the features of claim 1 are also disclosed in document D2, see col. 3, l. 26-39. Thus the subject matter of this claim is not novel against D2 either.
4. The present application does not meet the requirements of Art. 33(3) PCT because the subject matter of claim 18 cannot be considered as involving an inventive step for the following reasons:
 - 4.1 Document D3 is considered the closest prior art for the subject matter of claim 18 since it discloses a method from which claim 18 differs in that the batches of filters are wrapped along their length in a wrapper other than a "plugwrap".

The skilled person, faced with the problem of reducing filter-tip cigarette manufacturing costs, would look at document D2 also concerned with cost saving of material (see col. 2, l. 56-62) and consider the use of filters with a wrapper other than a plugwrap in the method according to D3, thus arriving at a method according to claim 18, without performing an inventive step.
 - 4.2 It is further pointed out that the subject matter of claim 18 is not considered inventive over the combination of documents D3 and D1 either.
5. The present application does not meet the requirements of Art. 33(2) PCT because the subject matter of claim 19 cannot be considered new for the following reasons: Document D4 discloses a method of producing filter tip cigarettes comprising a filter wrapped in a wrapper being other than "plugwrap" and a tobacco rod wrapped in a wrapper, the filter having particulate material attached thereto (see col. 3, l. 60-63), Furthermore it is considered that the steps of providing filter tow to a filter making machine, applying a particulate material to the wrapper at the filter making machine and wrapping the filter tow with said wrapper, thereafter supplying the cut lengths to a filter tip assembly machine fall within the customary practice of a skilled person in

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03430

the field of filter manufacturing (as also mentioned in col 2, l. 25-34). It must be concluded that all the features of the method in the wording of claim 19 are known from D4: thus the novelty requirements of Art. 33(2) PCT are not met.

6. A positive International Preliminary Examination Report with regard to the subject matter of dependent claims 2-6 can only be issued if such claims refer to an independent claim which meets the requirements of PCT with regards to novelty and inventive step.
7. Finally it should be noted that this International Preliminary Examination Report has been issued notwithstanding the fact that the expression "wrapper being other than a plugwrap" is vague and unprecise, since the term "plugwrap" employed in the claims has no precise meaning as it seems not to be internationally accepted as a standard descriptive term, thereby rendering the definition of the subject-matter of these claims unclear, Article 6 PCT.
8. Same remark applies for claim 18, with respect to the relative term "narrow" which has no well-recognised meaning and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.